

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

DEVELL MOORE,

Plaintiff,

v.

MARY K. HOLSTUS, *et al.*,

Defendants.

Case No. 3:25-cv-00316-MMD-CLB

ORDER

Pro se Plaintiff Devell Moore filed an application to proceed *in forma pauperis* (ECF Nos. 1, 4 (“IFP Application”)), a civil-rights complaint under 42 U.S.C. § 1983 (ECF No. 1-1 at 1-5, 11-17 (“Complaint”)), and motion for counsel (ECF No. 1-1 at 6-10). Before the Court is the Report and Recommendation (“R&R”) of United States Magistrate Judge Carla L. Baldwin, recommending that the IFP Application be denied as moot, the Complaint dismissed without prejudice and without leave to amend, and the motion for counsel denied as moot. (ECF No. 5.) Objections to the R&R were due by July 11, 2025. (See *id.*) To date, no objection has been filed. For that reason, and as further explained below, the Court will adopt the R&R in full.

Because there was no objection, the Court need not conduct *de novo* review, and is satisfied that Judge Baldwin did not clearly err. See *United States v. Reyna-Tapia*, 328 F.3d 1114, 1116 (9th Cir. 2003) (“De novo review of the magistrate judges’ findings and recommendations is required if, but *only* if, one or both parties file objections to the findings and recommendations.”) (emphasis in original). In the R&R, Judge Baldwin screens the Complaint under 28 U.S.C. § 1915A and recommends dismissal because it appears that Moore is challenging the constitutionality of his state court criminal conviction, and thus that any relief may only properly be sought through a *habeas corpus* action unless his conviction has been overturned. (ECF No. 5 at 4-5.) Moreover, to the

1 extent Moore attempts to assert claims against a district attorney and the sentencing
2 judge in his state case, those defendants are absolutely immune from suit under Section
3 1983 for actions intimately tied to their role in judicial proceedings. (*Id.* at 5.) The Court
4 agrees with Judge Baldwin that, because Plaintiff fails to state any meritorious claims
5 under Section 1983, dismissal of the Complaint without prejudice and without leave to
6 amend is appropriate. The Court further adopts Judge Baldwin's recommendations to
7 deny Moore's motion for appointment of counsel (ECF No. 1-1 at 6-10) and his IFP
8 Application (ECF No. 1) as moot, in light of the dismissal.

9 It is therefore ordered that Judge Baldwin's Report and Recommendation (ECF
10 No. 5) is accepted and adopted in full.


11 It is further ordered that Plaintiff's application to proceed *in forma pauperis* (ECF
12 Nos. 1, 4) is denied as moot.

13 It is further ordered that Plaintiff's Complaint (ECF No. 1-1 at 1-5, 11-17) is
14 dismissed without prejudice and without leave to amend.

15 It is further ordered that Plaintiff's motion for counsel (ECF No. 1-1 at 6-10) is
16 denied as moot.

17 The Clerk of Court is directed to enter judgment accordingly and close this case.

18 DATED THIS 18th Day of July 2025.

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21 MIRANDA M. DU
22 UNITED STATES DISTRICT JUDGE
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